

Examiner's Statement, Amendment, and Reasons for Allowance

Examiner's Statement

The amendment to the claims filed on 6/17/09 is acknowledged and entered.

Applicant's arguments filed 6/17/09 have been fully considered and found persuasive.

The rejection of claims 2 and 9 under 35 USC 102(b) and the rejection of claim 8 under 35 USC 103(a) over Alexandrov et al. have been withdrawn in view of applicant's argument that the instant application claims priority from prior application 09/654617 (filed Sept. 5, 2000), where the sequence of SEQ ID NO:271143 disclosed therein encodes the polypeptide sequence of the instant SEQ ID NO:44293. Thus, the prior application appears to provide adequate written description support for the sequence of the instant SEQ ID NO:44293. Consequently, Alexandrov et al. (Sept. 6, 2000) no longer qualifies as prior art.

Claims 2 and 8-9 are allowed.

Claims 10-13, previously withdrawn from further consideration, have been rejoined, considered and also found allowable with the examiner's amendment below.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lisa Adelson on 10/22/09.

In the claims (based on the amendment filed 6/17/09):

In claim 10, line 1, after "comprising a", insert -- recombinant --.

In claim 12, line 2, after "comprising a", insert -- recombinant --.

In claim 13, line 1, after "claim," delete "10" and insert therefor -- 12 --.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art does not teach or suggest a substantially purified polypeptide comprising an amino acid sequence having at least about 90% identity with the sequence of SEQ ID NO:44293. Nor does the prior art teach or suggest a transformed plant or seed comprising an isolated nucleic acid molecule comprising a nucleic acid sequence encoding a polypeptide sharing at least 90% sequence identity with the instant SEQ ID NO:44293.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shubo (Joc) Zhou, whose telephone number is 571-272-0724. The examiner can normally be reached Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie Moran, can be reached on 571-272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of

Art Unit: 1631

the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

/Shubo Zhou/

Shubo (Joe) Zhou, Ph.D.

Primary Examiner, Art Unit 1631

571-272-0724